

**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

Project File Number, Description, and Location

PDC03-025. Planned Development Rezoning from IP Industrial Park to A(PD) Planned Development Zoning District and subsequent permits to allow up to 18 single-family detached residential units, located on a 1.83-gross acre site at the south side of Trade Zone Boulevard approximately 840 feet westerly of North Capitol Avenue. (Reza Moghaddan, Owner / Charles W. Davidson Co., Developer). Council District: 4

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

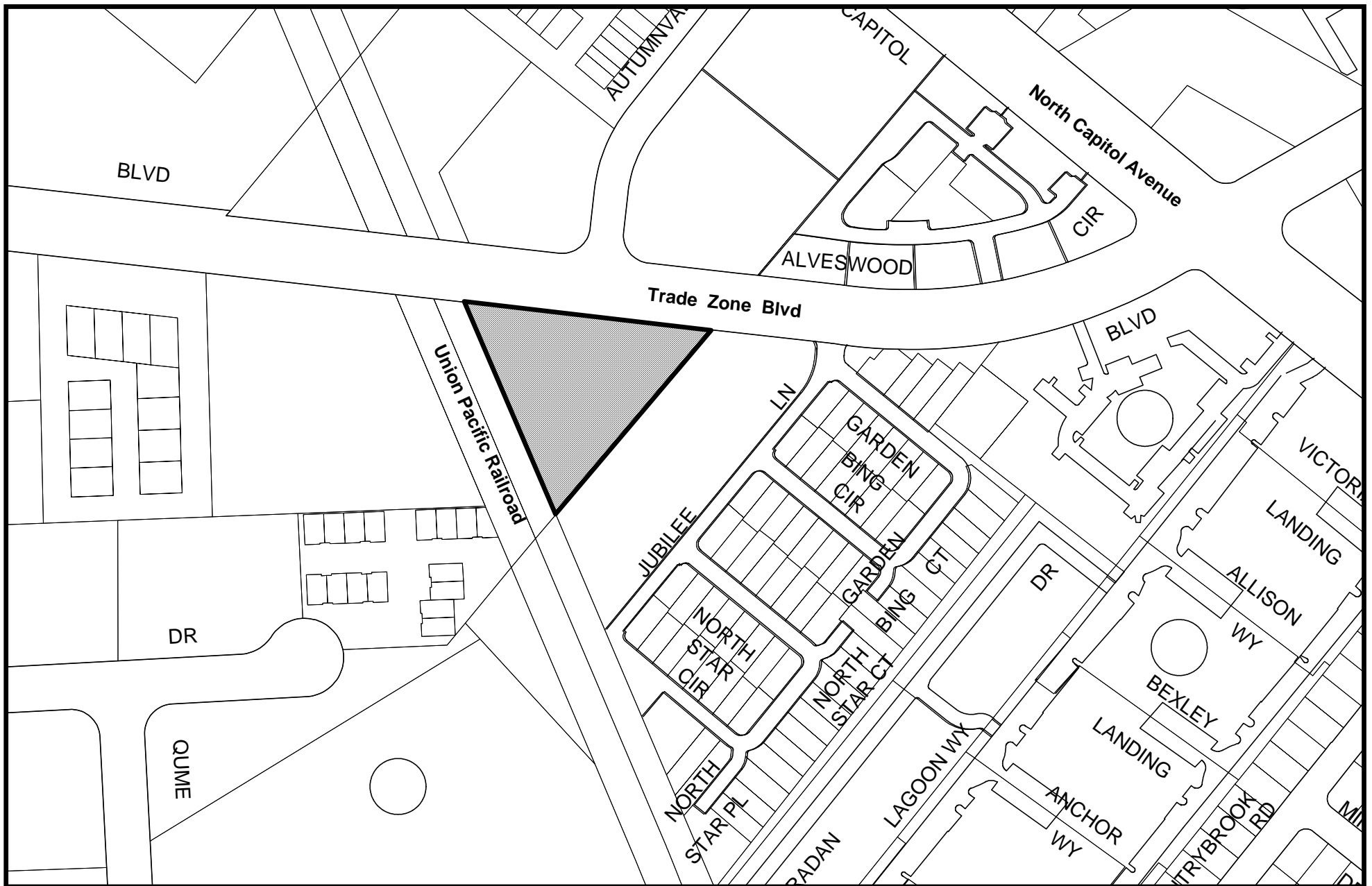
Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **July 21, 2003** and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **June 30, 2003** and ends on **July 21, 2003**.

A public hearing on the project described above is tentatively scheduled for **July 23, 2003 at 6:00 p.m.** in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Berryessa Branch Library, 3311 Noble ave., and online at <http://www.ci.san-jose.ca.us/planning/sjplan/eir/MND2003.htm> Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Caleb Gretton, Project Manager** at (408) 277-8831.

Stephen M. Haase, AICP, Director
Planning, Building and Code Enforcement

Date: June 30, 2003

Deputy



Scale: 1"=240'

Date: 04/02/2003



File No: PDC03-025

District: 4

Quad No: 36

**DRAFT
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Trade Zone Rezoning

PROJECT FILE NUMBER: PDC03-025

PROJECT DESCRIPTION: Planned Development Rezoning from IP Industrial Park to A(PD) Planned Development Zoning to allow the construction of up to 18 Single-Family Residences on a 1.84 gross acre site.

PROJECT LOCATION & ASSESSORS PARCEL NO.: South side of Trade Zone Boulevard approximately 840 feet westerly of Capitol Avenue.; 244-02-004

COUNCIL DISTRICT: 4

NAME OF APPLICANT: Sean Morely

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON: One Almaden Boulevard, Suite 705, San Jose CA 95113; 408-977-1989

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

1. Air Quality
 - A. Water all active construction areas at least twice daily or as often as needed to control dust emissions

- B. Cover all trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
 - C. Pave, apply water twice daily or as often as necessary to control dust, or apply non-toxic soil stabilizers on all unpaved access roads, parking areas and staging areas at construction areas.
 - D. Sweep daily or as often as needed to keep streets free of visible soil material.
 - E. Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
 - F. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles.
 - G. Limit vehicle traffic speeds on unpaved roads to 15 mph.
 - H. Replant vegetation in disturbed areas as quickly as possible.
2. Biological Resources
- A. Protect trees removed by the project that can feasibly be replanted (trees rated 3 or better in health/vigor on tree survey) will be replanted on the project site. Trees to be transplanted will be moved in conformance with a transplanting plan prepared by a qualified arborist.
 - B. If protected trees removed by the project cannot feasibly be retained and replanted on the project site, the trees will be replaced in-kind at a 4:1 ratio with 24-inch box specimens.
3. Geology and Soil
- A. All excavation and grading work will be scheduled in dry weather months or construction sites will be weatherized to withstand or avoid erosion.
 - B. Stockpile and excavated soils will be covered with secured tarps or plastic sheeting.
 - C. Existing vegetation will be removed only when it is absolutely necessary.
 - D. Vegetation in disturbed areas will be replanted as quickly as possible.
4. Hazardous and Hazardous Materials.
- A. An asbestos survey of the existing building will be conducted under the National Emissions Standards for Hazardous Air Pollutants guidelines.
 - B. If asbestos-containing materials are present, a Certified Asbestos Consultant or Site Surveillance Technician will be retained for asbestos abatement program to ensure utilization of proper work practices.
 - C. Testing of existing building will be conducted to determine if lead based paint is present. If lead based paint is found and it is bonded to the building materials, its removal is not

required prior to demolition. If lead based paint is found peeling, flaking or blistering, it will be removed prior to demolition. All lead based paint remediation activities will follow the requirements outlined by the CAL/OSHA Lead Construction Standard, Title 8, California Code of Regulations 1532.1

- D. Dust control measures, as listed in Section C, Air Quality, will be implemented to reduce the potential for exposure of local residents to dust from demolition and cleanup activities.

5. Water Quality

- A. Burlap bags filled with drain rock will be installed around storm drains during construction to route sediment and other debris away from the drains.
- B. Earthmoving or other dust-producing activities would be suspended during periods of high winds.
- C. All exposed or disturbed soil surfaces would be watered at least twice daily to control dust as necessary.
- D. Stockpiles of soil or other materials that can be blown by the wind would be watered or covered.
- E. All trucks hauling soil, sand, and other loose materials would be covered and all trucks would be required to maintain at least two feet of freeboard.
- F. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites would be swept daily (with water sweepers).
- G. Vegetation in disturbed areas would be replanted as quickly as possible.
- H. Storm Water Permit administered by the Regional Water Quality Control Board. Prior to the construction grading for the proposed land uses, the applicant will file a "Notice of intent" (NOI) to comply with the General Permit and prepare a Storm Water Pollution Prevention Plan (SWPPP) which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. The following measures would be included in the SWPPP:
 - 1. Preclude non-stormwater discharges to the stormwater system,
 - 2. Effective, site specific Best Management Practices for erosion and sediment control during the construction and post-construction periods.
 - 3. Cover soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff.
 - 4. Perform monitoring of discharge to the storm water system.
- I. The project will submit a copy of the draft SWPPP to the City of San Jose for review and approval prior to the construction of the project site. The certified SWPPP will be posted at the project site and will be updated to reflect current site conditions.

- J. When the construction phase is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the Regional Water Quality Control Board and the City of San Jose. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction stormwater management plan is in place as described in the SWPPP for the site.
- K. As part of the mitigation for post-construction runoff impacts addressed in the SWPPP, the project will implement regular maintenance activities (i.e., sweeping, maintaining vegetation swales, cleaning storm water inlet filters, fossil filters, litter control, and other activities by the City) at the site to prevent soil, grease, and litter from accumulating on the project site and contaminating surface runoff. Stormwater catch basins will be stenciled to discourage illegal dumping.

6. Noise

- A. Residential units located along the periphery of Trade Zone Boulevard and the rail line will have forced-air ventilation systems.
- B. Windows facing Trade Zone Boulevard and the rail line will have an STC rating of 30 to 35 to ensure a maximum peak interior noise level of 50 dBA and a Ldn of 45 dBA. Interior units will not require high STC rated windows.
- C. Prior to final approval, building plans for all units will be checked by a qualified acoustical consultant to ensure that noise levels are attenuated sufficiently.
- D. No private outdoor areas will be located along the north or west sides of the project site.
- E. Construction activities will be limited to the period between 7:00 AM and 7:00 PM Monday through Friday.
- F. The Contractor will be required to use “new technology” power construction equipment with state of the art noise shielding and muffling devices. All internal combustion engines used on the project site would be equipped with adequate mufflers and would be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.
- G. Staging areas will be located a minimum of 200 feet from noise sensitive receptors where possible.
- H. The developer will implement a Construction Management Plan approved by the City to minimize impacts on the surrounding sensitive land uses, particularly the residences, to the fullest extent possible. The Construction Management Plan would include the following measures to minimize impacts of construction upon adjacent sensitive land uses:

1. Early and frequent notification and communication with the neighborhood and other land uses of the construction activities, including the onset, expected consequences, and actual consequences of various construction activities, as well as a commitment to, whenever possible, reduce problems that occur.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **July 21, 2003**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$50 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: June 30, 2003

Deputy

Adopted on: _____

Deputy